

IN THE COURT OF APPEALS OF TENNESSEE
AT KNOXVILLE
June 8, 2009 Session

NINA SUH v. RAYMOND GIBBS, ET AL.

Appeal from the Chancery Court for Knox County
No. 166432-3 Michael W. Moyers, Chancellor

No. E2007-00732-COA-R3-CV - FILED AUGUST 27, 2009

In this litigation, Nina Suh (the “plaintiff”) sued the purchaser of property once owned by Jung Lim Lee to enforce a judgment lien the plaintiff recorded against Jung L. *Fowler*. Lee and Fowler are the same person. The complaint asks that property identified as lot 6 of Hampton Hall Subdivision, Knoxville, be sold to satisfy the lien. The original defendants were Robert L. Davis, who purchased the property directly from Lee, and Davis’ mortgagee, New Century Mortgage. Davis later sold to Raymond Gibbs and Edith Gibbs, who were substituted as defendants in place of Davis. The defendants moved for summary judgment on the ground that the lien recorded against Fowler was ineffective against them since they purchased from a title holder named Lee and the recording did not give them notice of a lien against Lee. The trial court granted summary judgment on the basis of this court’s opinions in *Young v. RAC Express, Inc.*, No. E2005-01165-COA-R3-CV, 2006 WL 1699001 (Tenn. Ct. App., filed June 21, 2006) and *Gibson v. Flynn*, No. 88-120-II, 1988 WL 119257 (Tenn. Ct. App., filed November 10, 1988). The plaintiff appeals. We affirm pursuant to the provisions of Court of Appeals Rule 10.¹

Tenn. R. App. 3 Appeal as of Right; Judgment of the Chancery Court
Affirmed; Case Remanded

CHARLES D. SUSANO, JR., J., delivered the opinion of the court, in which HERSCHEL P. FRANKS, P.J., and D. MICHAEL SWINEY, J., joined.

Byron D. Bryant, Knoxville, Tennessee, for the appellant, Nina Suh.

Frank H. Reeves, Nashville, Tennessee, for the appellees, Raymond Gibbs and Edith Gibbs.

¹Rule 10 of the Rules of the Court of Appeals provides as follows:

This Court, with the concurrence of all judges participating in the case, may affirm, reverse or modify the actions of the trial court by memorandum opinion when a formal opinion would have no precedential value. When a case is decided by memorandum opinion it shall be designated “MEMORANDUM OPINION”, shall not be published, and shall not be cited or relied on for any reason in any unrelated case.

MEMORANDUM OPINION

The only fact of consequence we have not already mentioned is that Jung Lim Lee was once married to a Mr. Fowler and executed a trust deed on the subject property to a past lender which included Mr. Fowler as a grantor. The deed of trust was released long before Jung Lim Lee sold the property. A subsequent deed of trust showed her as widowed and unmarried and did not include Fowler as a grantor. Lee sold it as she bought it, as an unmarried person, using the last name of *Lee*. The general argument that the trust deed put subsequent purchasers of the property on inquiry notice of the lien is the sole basis for this appeal.

The problem with the argument, as explained by the trial court in its memorandum opinion, is that a “purchaser is not required to examine every record that might, by some possibility, affect real estate before he can safely take the title.” *Id.* (quoting *Gibson*, 1988 WL 119257 at *4). Once the deed of trust was released, it would no longer have any legal effect on the title. Further, as we held in *Young*, judgments recorded against names different from the name of the grantor to subsequent purchasers “would not be in the [purchasers’] chain of title, and [the purchasers] would not be charged with constructive notice.” 2006 WL 1699001 at *2. In *Young*, the judgment lien against Heatwold was ineffective against purchasers from Heatwold. *Id.* The plaintiff does not attempt to distinguish *Gibson*. As to *Young*, the distinction amounts to an argument that the plaintiff spelled the wrong name, Fowler, correctly. There is no argument of fact or law that would change the result in this case. The trial court correctly held that the burden was on the plaintiff to determine Jung L. Fowler against whom the plaintiff held judgment was in fact Jung Kim Lee, and record her lien accordingly. On our review of the record and the cases cited above, construing the facts and inferences in favor of the plaintiff, we find it beyond dispute in fact and law that the recorded judgment lien was ineffective against these defendants.

Accordingly, the judgment of the trial court is affirmed. Costs on appeal are taxed to the appellant Nina Suh. This case is remanded, pursuant to applicable law, for collection of costs assessed below.

CHARLES D. SUSANO, JR., JUDGE